REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on 04/16/2009, and the references cited therewith.

Non-narrowing amendments have been made to claims 1, 13, 18, 25, and 30.

Request for Examiner Interview

Applicant's representative requests a telephonic Examiner Interview to discuss this response in an attempt to expedite prosecution. Applicant's representative requests that the Examiner contact Steven R. Gilliam at 512.372.3933 to schedule a time for the telephonic interview that is convenient for the Examiner.

Allowable Subject Matter

Claims 3, 15, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the indication of allowable subject matter.

Claim Objections

Claims 1-12 and 14-36 are objected to because of the following informalities:

a. Claim 1, line 14, and claim 25, line 15, the recitation of "each participant", should be "each of the one or more participants";

b. Claims 2-12, line 1, the recitation of "A method", should be "The method";

c. Claims 14-24, the recitation of "A data processing system" should be "The data processing system ";

d. Claims 26-36, line 1, the recitation of "A computer program product", should be "the computer program product";

e. Claims 18 and 30, line 3, the claims are incomplete and do not end with a period;

Claims 1 and 18 have been amended in accordance with the Examiner's suggested amendments. Claim 1 has been amended to recite "each of the one or more participants." Claims 2 – 12 have not been amended in response to the claim objection because recitation of "A method" does not violate any rule and is not a defect or an informality. Claims 26 – 36 have not

been amended in response to the claim objection because recitation of "A computer program product" does not violate any rule and is not a defect or an informality. Claims 18 and 30 have been amended to include a period at the end of each of the claims.

§101 Rejection of the Claims

Claims 13-24 are rejected under 35 U.S.C. 101 because the claimed invention is allegedly directed to non-statutory subject matter. The Examiner makes a tangled argument that claims 13-24 fail §101 because the specification allegedly lacks structure to support the claims under §112, sixth paragraph. Applicant respectfully submits that the rejection is confusing because it seems to be a §112, sixth paragraph rejection under a §101 heading. Applicant respectfully submits that the means for limitations of claims 13-24 are clearly supported by both hardware structures (see the data processing host depicted in Figure 1) and particular functions to be performed by the data processing host pursuant to instructions for programming the data processing host (see *inter alia*, pages 5 and 12-15 of the patent application), and thus satisfy both §101 and §112, sixth paragraph. As stated by the Federal Circuit in Aristocrat Techs. Austl. Pty. Ltd. v. Inter. Game Tech., 521 F.3d 1328 (Fed. Cir. 2008), "a general purpose computer programmed to carry out a particular algorithm creates a 'new machine' because a general purpose computer 'in effect becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software.'" Pursuant to the Federal Circuit analysis, the disclosure throughout Applicant's specification of the data processing system being programmed to perform the particular disclosed functions satisfies §112, sixth paragraph. Further, the data processing host programmed to perform the particular functions creates a new machine, which satisfies §101. Thus, claims 13-24 comport with the requirements of both §112, sixth paragraph and §101.

§112 Rejection of the Claims

Claims 1-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner states that claim 1 is unclear because it is unclear who is performing various actions (e.g., "who is receiving a request," "where the queue is registered," "who is

processing the request"). The Examiner suggests amending the claim to recite that the messaging service is the actor. Applicant's representative respectfully submits that claim 1 can comply with §112, second paragraph without the requested amendments, and that claim 1 complies with §112, second paragraph without identifying a particular actor. A person of ordinary skill in the art can interpret the metes and bounds of the claim so as to understand how to avoid infringement without claim 1 reciting the messaging service. A claim must not be rejected under §112, second paragraph because "the examiner merely wants the applicant to improve the clarity or precision of the language used." MPEP 2173.02. Claim 1 has been amended to make clear that "the request" is for sending the asynchronous message to a queue.

The Examiner also stated that "processing the request to send the asynchronous message by delivering" as recited in claim 1 was unclear. Applicant's representative has amended claim 1 accordingly.

The Examiner stated that lines 14 – 15 of claim 1 were unclear. Applicant's representative has amended claim 1 to remove commas from the last limitation of claim 1 to make claim 1 more clear.

The Examiner stated that claims 13 and 25 have the same deficiencies of claim 1. Some of the comments by the Examiner, however, are not applicable to claims 13 and 25. For instance, claim 13 recites "the messaging service to receive a request." Applicant's representative has made amendments in claims 13 and 25 similar to those made in claim 1.

§103 Rejection of the Claims

Claims 1, 2, 4, 13-14, 16, 25-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dadiomov et al. (hereinafter Dadiomov, previously cited on 1449 dated 1/15/2008) (U.S. Patent 6,529,932 81) in view of Chessell (previously cited on PTO-892 dated 3/31/2008, U.S. Patent 6,324,589 81). Applicant respectfully submits that Dadiomov and Chessell, standing alone or in combination, fail to disclose or suggest all of the limitations of the independent claims 1, 13, and 25.

Claim 1 recites "registering a definition for the queue, the definition providing details of an operation provided by a recipient." Claims 13 and 25 recite similar limitations. The

Examiner argues that the quoted language is disclosed by Dadiomov. The Examiner refers to col. 7, lines 31-34 and col. 10, lines 10-14 of Dadiomov. These passages from Dadiomov respectively disclose a message queuing system routing a message through a network to a target queue based on routing information in a MQDS, and foreign message objects defined in the MQDS to allow applications in a first message queuing system to send messages to message queues in a second message queuing system. Although Dadiomov discloses foreign message queues defined in the MQDS, Dadiomov never discloses the definition of a foreign queue providing details of an operation provided by a recipient. In Dadiomov, the foreign queue definition provides route information to a foreign queue, not details about an operation provided by a recipient.

The claims 1, 13, and 25 each then recite that the operation is called to deliver the asynchronous message to the recipient. Specifically, claim 1 recites "the asynchronous message is delivered to the recipient by calling the operation and including details of the asynchronous message...." Claims 13 and 25 recite similar language. The Examiner argues that Dadiomov discloses the quoted language, and refers to col. 10, lines 36-44 of Dadiomov. This passage of Dadiomov actually discloses that a connector application "reads the message properties according to the format of the sending system and translated their values into the format of the receiving system." Dadiomov col. 10, lines 36-40. Translating a message does not disclose or suggest delivering the message by calling an operation provided by a recipient. Dadiomov then states that the connector application uses an API of MQSys2 to access the MQSys2 MQ manager to forward the translated message to a foreign queue in the MQSys2. Dadiomov col. 10, lines 40-44. Dadiomov does not disclose or suggest the API of MQSys2 as being provided in a definition of the foreign queue. In Figure 6, Dadiomov depicts the MQSys2 API 168 on a foreign computer 150. Hence, the connector application 160, which is on a connector computer 144, accesses the API 168 on the foreign computer 150. The connector application does not access the MQDS 120 to use the API 168. A connector application using an API of a message queuing system on a foreign computer to forward a translated message does not disclose or suggest delivering an asynchronous message by calling an operation provided in a queue

definition. For at least these reasons, neither Dadiomov nor Chessell, standing alone or in combination, discloses or suggests any of the claims.

Claims 5-6, 10-11, 17-18, 22, 23, 29, 30, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dadiomov et al. (hereinafter Dadiomov) (u.s. Patent 6,529,932 81) in view of Chessell (U.S. Patent 6,324,58981), as applied to claim 1 above, and further in view of Leymann et al. (hereinafter Leymann, previously cited) (U.S. Patent 6,012,094). Applicant respectfully submits that claims 5-6, 10-11, 17-18, 22, 23, 29, 30, 34, and 35 depend on a corresponding one of the above allowable independent claims, and are allowable at least for the reasons given above.

Claims 7-9, 12, 19-21, 24, 31-33, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dadiomov et al. (hereinafter Dadiomov) (U.S. Patent 6,529,932 81) in view of Chessell (U.S. Patent 6,324,58981) and further in view of Leymann et al. (hereinafter Leymann) (U.S. Patent 6,012,094), as applied to claim 6 above, and further in view of Gigliotti et al. (hereinafter Gigliotti, previously cited) (U.S. Patent 6,138,143). Applicant respectfully submits that claims 7-9, 12, 19-21, 24, 31-33, and 36 depend on a corresponding one of the above allowable independent claims, and are allowable at least for the reasons given above.

The Examiner has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). To do that the Examiner must show that some objective teaching in the prior art or some knowledge generally available to one of ordinary skill in the art would lead an individual to combine the relevant teaching of the references. *Id.* In order for the Examiner to establish a *prima facie* case of obviousness, three base criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *M.P.E.P.* § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney Steven R. Gilliam at 512-372-3933 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 09-0447.

Respectfully submitted,
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This paper or fee is being filed on the date indicated above using the USPTO's electronic filing system EFS-Web, and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.